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ATTORNEY DOCKET NO. 13237.0001U2  
PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

|                              |   |                           |
|------------------------------|---|---------------------------|
| In re Application of         | ) |                           |
|                              | ) |                           |
| Philip Jacoby                | ) | Art Unit: 1772            |
|                              | ) |                           |
| Application No. 10/824,730   | ) | Examiner: Chevalier, A.A. |
|                              | ) |                           |
| Filing Date: April 15, 2004  | ) | Confirmation No. 6721     |
|                              | ) |                           |
| For: "EXTRUDED POLYPROPYLENE | ) |                           |
| SHEETS CONTAINING BETA       | ) |                           |
| SPHERULITES"                 | ) |                           |

**ELECTION UNDER RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

NEEDLE & ROSENBERG, P.C  
Customer No. 23859

Sir:

This paper is submitted in response to the Office Action mailed on December 13, 2005, in which a Restriction Requirement has been made.

The Examiner requires the Applicants to elect a single invention for prosecution on the merits from one of two patentably distinct inventions believed by the Examiner to be present in the application. The Examiner contends that these two patentably distinct inventions are those of:

- I. Claims 1-10 and 12-16, drawn to a sheet, classified in class 428, subclass 131; and
- II. Claim 11, drawn to a method of making the sheet, classified in class 156, subclass various.

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The Applicants hereby provisionally elect invention I, as set forth in claims 1-10 and 12-16, with traverse.

The Applicants respectfully request that the restriction requirement be reconsidered as it is not shown in the Office Action that a serious burden would be required to examine the pending claims of Inventions I and II, respectively, in the instant patent application. Specifically, M.P.E.P § 803 provides:

If the search and examination of an application can be made without serious burden, the Examiner *must* examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis supplied.*)

Thus, for a restriction requirement to be proper, the following two criteria must be satisfied: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden in the matter. *See* M.P.E.P § 803.

The Office Action has at least not shown that the second requirement has been met. Specifically, it has not been shown that it would be a serious burden to search and examine all of the claims of Groups I and II together. Consequently, reconsideration and modification or withdrawal of the restriction requirement to this extent is respectfully requested.

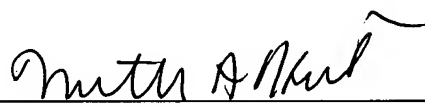
Should the Examiner have any questions regarding the Applicants' response to the Restriction Requirement, or which may advance the efficient prosecution of the application, the Examiner is courteously invited to contact the undersigned at the telephone number and address listed below.

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No fee is believed due; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 14-0629.

Respectfully submitted,

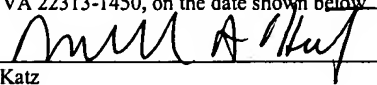
NEEDLE & ROSENBERG, P.C.

  
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Mitchell A. Katz  
Registration No. 33,919

NEEDLE & ROSENBERG, P.C.  
Customer No. 23859  
678-420-9300 Tel  
678-420-9301 Fax

CERTIFICATE OF MAILING UNDER 37 C.F.R. 1.8

I hereby certify that this correspondence, including any items indicated as attached or included is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below

  
\_\_\_\_\_  
Mitchell A. Katz

30 December 2005  
\_\_\_\_\_  
Date